

07:31:42 1 sure I've got the correct exhibit number this time. Exhibit No.
07:31:51 2 242. Do you have that book in front of you?
07:31:59 3 A. 242, let's see. I think I've got it.
07:32:17 4 Q. (BY MR. FELDMAN) Do you see that's a letter from Dr. Henry
07:32:23 5 Bonorden, your predecessor, in 1978 to Jack Roberts? And in the
07:32:31 6 fourth paragraph of that letter, Mr. -- Dr. Bonorden states,
07:32:39 7 quote, we feel that in this period of time -- that is, from 1970
07:32:51 8 to 1978 -- we should have established a satisfactory record of
07:32:51 9 maintenance of a unitary school system and that these reports
07:32:53 10 constitute considerable duplication of the same information,
07:32:56 11 close quote?

07:33:09 12 And do you see that in that letter, he's referring to
7:33:12 13 the requirement that there be biannual reports to the Court on
07:33:18 14 the maintenance of a unitary school system?

07:33:22 15 MR. CASPAR: Your Honor, I object. He didn't even wait
07:33:24 16 for an answer from the witness. And the witness has no knowledge
07:33:28 17 of this 1978, as far as we know. I think the document can speak
07:33:32 18 for itself in this case.

07:33:34 19 THE COURT: Well, I'll overrule the objection. Go
07:33:38 20 ahead.

07:33:39 21 MR. FELDMAN: Thank you, your Honor.

07:33:43 22 Q. (BY MR. FELDMAN) Have you seen the letter that Dr.
07:33:47 23 Bonorden --

07:33:47 24 A. Yes.

07:33:47 25 Q. -- is representing you had maintained -- maintaining a

07:33:52 1 unitary school system since 1978?

07:33:55 2 A. Yes, sir.

07:33:55 3 Q. Let me direct your attention, sir, further to Exhibit 243.

07:34:00 4 A. 243?

07:34:01 5 Q. Yes, sir. Incidentally, in 1978, would you have any -- you

07:34:15 6 had no reason to dispute Dr. Bonorden's representation, did you?

07:34:19 7 A. No.

07:34:20 8 Q. No?

07:34:20 9 A. No.

07:34:21 10 Q. All right. The next exhibit, which is 243, is dated August

07:34:28 11 19th, 1988, from Dr. Bonorden to Bradford Reynolds, Assistant

07:34:35 12 Attorney General. Do you see where it states in the fourth

7:34:42 13 paragraph, after referring to a fire that destroyed some records?

07:34:50 14 A. 243, you said, the fourth paragraph?

07:34:53 15 Q. Yes. Exhibit 243. I'm sorry, third paragraph.

07:34:57 16 A. Okay.

07:35:00 17 Q. It states, quote, due to a fire on December 7, 1986 in our

07:35:05 18 administration building our records were destroyed and we cannot

07:35:08 19 produce any of these documents. We have successfully

07:35:13 20 desegregated our schools and feel that judicial supervision is

07:35:17 21 not required, close quote. Do you see that?

07:35:20 22 A. Yes, sir.

07:35:21 23 Q. Would you have any reason to disagree with what Dr. Bonorden

07:35:25 24 has stated in 1988?

07:35:29 25 A. No, sir.

07:35:29 1 Q. Next, let me direct your attention to Exhibit 244. Looking
07:36:27 2 at the correspondence, which is Exhibit 244, it includes a cover
07:36:37 3 letter from Hairston, Walsh, Anderson, Underwood & Schulze, law
07:36:41 4 firm in Austin, to Dr. Bonorden, dated May 15th, 1989. Do you
07:36:51 5 see that?

07:36:52 6 A. Yes, sir.

07:36:53 7 Q. Now, at the time, can you tell us if Hairston, Walsh were
07:36:59 8 the school attorneys for the Hearne Independent School District
07:37:04 9 in 1989?

07:37:05 10 A. I think so.

07:37:05 11 Q. Were they the school attorneys for the school district while
07:37:08 12 you were superintendent for the school district from 1996 to
7:37:14 13 2001?

07:37:15 14 A. Yes, sir.

07:37:15 15 Q. Do you know whether they're the school attorneys for the
07:37:17 16 school district today?

07:37:19 17 A. No, sir.

07:37:19 18 THE COURT: Excuse me, sir. I want to read this
07:37:20 19 letter. Just a minute. All right. You may proceed.

07:42:44 20 MR. FELDMAN: Thank you, your Honor.

07:42:46 21 Q. (BY MR. FELDMAN) Do you see, sir, in connection with Exhibit
07:42:49 22 244, attached to the letter there is a joint preliminary status
07:42:56 23 report that was submitted to Judge Nowlin?

07:43:00 24 A. Yes.

07:43:00 25 Q. And as -- there's an affidavit, attached to that report,

07:43:08 1 signed by Henry Bonorden, your predecessor, and it's listed as --
07:43:17 2 there's an Exhibit A, which is his affidavit, and there is an
07:43:20 3 Exhibit B, which is that affidavit, directing your attention to
07:43:24 4 Exhibit B.

07:43:30 5 A. 244, Exhibit A. Okay. Exhibit A, I have Exhibit A.

07:43:45 6 Q. Do you see that he's representing to the Court that all
07:43:48 7 school facilities, including gymnasium -- this is the one, two,
07:43:53 8 three, fourth paragraph of the affidavit -- quote, all school
07:43:58 9 facilities, including gymnasiums, auditoriums and cafeterias have
07:44:03 10 been operated since 1970 on a desegregated basis, and serve all
07:44:07 11 students, faculty and staff without regard to race, color or
07:44:12 12 national origin?

:44:13 13 A. Yes, sir.

07:44:13 14 Q. And do you have any reason to dispute Dr. Bonorden's sworn
07:44:18 15 statement in that regard?

07:44:18 16 A. No, sir.

07:44:21 17 THE COURT: Answer for the record.

07:44:22 18 THE WITNESS: No, sir.

07:44:26 19 Q. (BY MR. FELDMAN) Let me direct your attention, also, to
07:44:29 20 Exhibit 245.

07:44:31 21 THE COURT: Before we go into that, it's time for a
07:44:33 22 recess. The Court is in recess for 15 minutes.

07:44:49 23 (Recess.)

08:02:56 24 THE COURT: Counsel, we've been on this witness a long
08:02:58 25 time. How long do you anticipate?

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MR. FELDMAN: This is the last document, your Honor,

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and that's it.

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THE COURT: All right. I'm not trying to cut you off.

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I'm just trying to make a point -- an inquiry. Go ahead.

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Q. (BY MR. FELDMAN) Mr. McDaniel, I'd next direct your

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attention to Exhibit 245. And do you see, sir, that that

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includes a letter from the -- excuse me, I'm sorry. That

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reflects a report that was filed with a clerk of the Western

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District of Texas, a joint status report, submitted by Hearne

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Independent School District, the United States of America, with

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respect to the school district's compliance with the

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desegregation order which it operated?

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A. Yes. Exhibit 245?

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Q. Uh-huh. Do you see that?

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A. Yeah.

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Q. And in it, United States and Hearne Independent School

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District, if you turn to page 2 -- would the Court like an

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opportunity to read this before I question the witness?

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THE COURT: Go ahead.

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Q. (BY MR. FELDMAN) If you look at paragraph 2 of page 2 of

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that report, do you see where it says, "The United States is

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satisfied that in the areas of student assignments,

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transportation, extracurricular activities, and facilities, the

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school district has substantially complied in all respects"?

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A. Yes, sir.

08:04:59 1 MR. CASPAR: Your Honor, at this time, the United
08:05:00 2 States would object to the continued questioning of Mr. McDaniel
08:05:03 3 to these documents. It's clear from the previous questioning
08:05:06 4 that he has no foundation to answer any questions about the
08:05:08 5 documents.

08:05:10 6 THE COURT: Well, this is a legal document you're
08:05:11 7 asking questions of a witness who -- you're not a lawyer, are
08:05:18 8 you?

08:05:18 9 THE WITNESS: No, sir.

08:05:19 10 THE COURT: Have you had any legal training as such?

08:05:22 11 THE WITNESS: No, sir.

08:05:23 12 THE COURT: All right. Go ahead. I'll take that into
:05:27 13 consideration.

08:05:28 14 MR. FELDMAN: Yes, sir.

08:05:30 15 Q. (BY MR. FELDMAN) Do you have any reason to dispute the fact
08:05:33 16 that in 1989, in the areas of student assignments,
08:05:40 17 transportation, extracurricular activities, and facilities, the
08:05:43 18 Hearne Independent School District has substantially complied
08:05:45 19 with the federal desegregation order that it was under?

08:05:50 20 MR. CASPAR: Objection, your Honor. Calls for a legal
08:05:51 21 conclusion and the witness --

08:05:54 22 THE COURT: I recognize that. I overrule the
08:05:56 23 objection. As I say, I don't intend to rely upon any evidence I
08:05:59 24 regard as inadmissible, but in an effort to get through the
08:06:04 25 evidence in a hurry, without having to rule on objections, I

08:06:07 1 simply overrule them all.

08:06:10 2 Go ahead.

08:06:12 3 Q. (BY MR. FELDMAN) Do you understand the question, sir?

08:06:17 4 A. I don't have a reason.

08:06:18 5 Q. Thank you, your Honor. Pass the witness.

08:06:21 6 THE COURT: Does the Texas Education Agency desire to
08:06:25 7 interrogate the witness?

08:06:30 8 MS. HANSEN: No, your Honor. Thank you.

08:06:33 9 THE COURT: Is there redirect examination?

08:06:34 10 MR. CASPAR: Yes, your Honor.

08:06:35 11 MR. FELDMAN: Your Honor, we would also have recently,
08:06:37 12 just a few moments ago, received some information with respect to
08:06:40 13 the status of that desegregation case in Judge Nowlin's court
08:06:45 14 that we -- the Court has time this afternoon, we would like to
08:06:49 15 proffer to the Court.

08:06:51 16 THE COURT: Is it an exhibit?

08:06:54 17 MR. FELDMAN: That the Court take judicial notice of,
08:06:57 18 your Honor, in connection with the motion to dismiss.

08:07:01 19 THE COURT: I don't have a copy of it, so I don't know
08:07:02 20 how I can take judicial notice of it.

08:07:05 21 MR. FELDMAN: I'll present it to the Court at this
08:07:06 22 time.

08:07:06 23 THE COURT: All right.

08:07:16 24 MR. FELDMAN: I would tender to the Court the docket
08:07:19 25 sheet in Cause No. A 70-CA-80, which is still pending before

08:07:43 1 Judge Nowlin. I will also tender to the Court the last joint
08:07:51 2 status report filed by the United States and Hearne I.S.D. in
08:07:54 3 that case, which is dated November 30th, 1989. And the last
08:08:01 4 order of that court in connection with the case, specifically,
08:08:06 5 Hearne I.S.D., dated February 10th, 1989.

08:10:00 6 THE COURT: It appears to show that on August 29th, 19
08:10:08 7 -- 2002, there was an agreed order of dismissal.

08:10:13 8 MR. FELDMAN: Yes, your Honor, I've inquired about
08:10:15 9 that, and it's been represented to me by the United States that
08:10:18 10 the agreed order of dismissal was to -- as to Temple I.S.D. only.
08:10:24 11 I, however, have not seen that order.

08:10:27 12 MR. CASPAR: Your Honor, the United States first
08:10:29 13 received these documents in question from Hearne only a couple of
08:10:33 14 weeks ago. Since then, we've endeavored to find a -- since then,
08:10:37 15 we've endeavored to find the documents referenced in the docket
08:10:40 16 sheet. We've pulled them from national archives, and orders of
08:10:45 17 dismissal that we find are applicable to Temple I.S.D. And we
08:10:50 18 have those orders back at the office, and we will bring them
08:11:00 19 before the Court tomorrow.

08:11:00 20 THE COURT: There has been no final order entered, if I
08:11:00 21 understand you, with reference to the case involving the Hearne
08:11:00 22 Independent School District.

08:11:02 23 MR. CASPAR: That's right, your Honor.

08:11:04 24 MR. HEPWORTH: That's our understanding, as well. I
08:11:05 25 wasn't aware of these documents until a couple -- you know, a

08:11:09 1 couple of months ago.

08:11:09 2 THE COURT: Well, the Court will take judicial notice
08:11:11 3 of these various orders that have been presented to it. They're
08:11:16 4 part of the evidence in the case.

08:11:18 5 MR. FELDMAN: Thank you, your Honor.

08:11:22 6 THE COURT: You may take the witness on redirect
08:11:23 7 examination.

08:11:24 8 RE-DIRECT EXAMINATION

08:11:27 9 BY MR. CASPAR:

08:11:27 10 Q. Mr. McDaniel, thank you very much. I have only a few more
08:11:29 11 questions for you. Didn't mean to startle you there. I'm sorry.

08:11:34 12 THE COURT: Is your microphone working?

:11:37 13 MR. CASPAR: Let me see. Is that working?

08:11:40 14 MR. HEPWORTH: Doesn't appear to be.

08:11:48 15 MR. CASPAR: I'll speak up, your Honor. I'm sorry.

08:11:51 16 THE COURT: Take a look at it and see what's the matter
08:11:53 17 with it. Maybe the volume needs to be turned up on that
08:12:16 18 microphone. Well, speak directly into the microphone. Maybe I
08:12:42 19 can hear better.

08:12:46 20 MR. CASPAR: Yes, your Honor.

08:12:53 21 Q. (BY MR. CASPAR) Mr. McDaniel?

08:12:55 22 A. Yes, sir.

08:12:56 23 Q. When we were speaking previously of the ability grouping at
08:13:00 24 Hearne I.S.D., were you implying that the ability grouping was
08:13:08 25 racist?

08:13:10 1 A. No, sir.

08:13:11 2 Q. Was the substance of your testimony that the ability
08:13:14 3 grouping had segregative effects?

08:13:18 4 A. Yes, sir.

08:13:20 5 Q. And counsel for Mumford asked you about Hearne I.S.D.'s
08:13:26 6 dropout rate from 1999 to 2000. Do you remember that?

08:13:30 7 A. Yes, sir.

08:13:32 8 Q. 1999 to 2000, how many years after the transfers began was
08:13:37 9 that?

08:13:44 10 A. Eight. Somewhere around eight years, sir.

08:13:46 11 Q. And did you testify earlier that as a result of the
08:13:48 12 transfers, you lost -- or the district lost lots of funding?

08:13:55 13 A. Yes, sir.

08:13:55 14 Q. And the district lost teachers due to that?

08:13:57 15 A. Yes, sir.

08:13:58 16 Q. And it wasn't until after eight years later that this
08:14:00 17 dropout rate occurred?

08:14:02 18 A. Yes, sir.

08:14:05 19 Q. Do you know when Mumford built its new building?

08:14:11 20 A. No, sir. I'm not sure of the year on that.

08:14:14 21 Q. Do you know about when? About --

08:14:19 22 A. Let's see, sir. I'm not remembering the year that they did
08:14:29 23 that. No, sir.

08:14:31 24 Q. Was it -- do you remember if it was after 2000?

08:14:35 25 A. Yes, sir.

08:14:36 1 Q. And is that many years after the transfers started?

08:14:40 2 A. Oh, yes, sir.

08:15:01 3 Q. Counsel for Mumford also asked you questions about transfers
08:15:06 4 going from -- transfers starting in the '90s and going to
08:15:12 5 Mumford. Do you remember that?

08:15:13 6 A. Yes, sir.

08:15:14 7 Q. When we were speaking of transfers leaving Hearne, were we
08:15:18 8 speaking -- or were you speaking in terms of transfers leaving
08:15:20 9 Hearne, period, and not necessarily to any given district?

08:15:25 10 A. Just transfers, period. Yes, sir.

08:15:27 11 Q. Because you were referring to the cumulative effect of all
08:15:32 12 transfers leaving Hearne, right?

08:15:33 13 A. Yes, sir.

08:15:34 14 Q. Not just to any one district?

08:15:35 15 A. No, sir.

08:15:43 16 Q. It was also pointed out, do you remember, that some Hearne
08:15:48 17 board members have been encouraging Hearne students to go the
08:15:53 18 Mumford? Do you remember that?

08:15:55 19 A. Yes, sir.

08:15:55 20 Q. Mr. McDaniel, do you know Hearne board members actually have
08:16:00 21 transferred their own children from Hearne to Mumford?

08:16:03 22 A. Yes, sir. I have one board member who did transfer his
08:16:08 23 child to Mumford.

08:16:09 24 Q. And when was that?

08:16:14 25 A. Probably around 2000-2001, somewhere around --

08:16:21 1 THE COURT: What was the name of the board member?

08:16:22 2 THE WITNESS: His name was Henry. His last name was
08:16:28 3 Henry. I'm trying to think of that first name. My goodness.

08:16:33 4 THE COURT: Was it white or black or --

08:16:35 5 THE WITNESS: He was white. Initials were J.R. Henry.
08:16:39 6 Jerry Henry.

08:16:41 7 Q. (BY MR. CASPAR) Since Jerry Henry brought his -- transferred
08:16:43 8 his kid from Hearne to Mumford, do you know whether another
08:16:46 9 Hearne board member has done that?

08:16:47 10 A. Yes, sir. Earlier, before that time, we had another board
08:16:52 11 member to transfer a child out of Hearne.

08:16:56 12 Q. Who was that?

08:16:56 13 A. His name was Corey Helmstrum.

08:16:59 14 Q. When was that?

08:17:02 15 A. This was while I was a principal at Blackshear. Must have
08:17:12 16 been '86-'87, thereabouts.

08:17:15 17 Q. Do you believe that --

08:17:18 18 THE COURT: What was his race?

08:17:19 19 THE WITNESS: He was -- sir?

08:17:22 20 THE COURT: What was his race?

08:17:24 21 THE WITNESS: He was white, also.

08:17:26 22 Q. (BY MR. CASPAR) Do you believe that the -- what effect do
08:17:27 23 you believe has -- what is the effect, do you think, of Hearne's
08:17:33 24 own board members transferring their children to Mumford?

08:17:36 25 MR. FELDMAN: Objection, your Honor. Calls for a

08:17:37 1 conclusion.

08:17:45 2 THE COURT: I overrule your objection. Let's get on.

08:17:45 3 A. I think that others were curious and perhaps start thinking
08:17:48 4 that things were going on that they didn't know about, since the
08:17:56 5 administration was taking its children out of the district. So
08:17:59 6 that's, as a matter of fact, one parent told me that. They
08:18:03 7 didn't know why children were leaving, but when you had board
08:18:05 8 members taking their children out, then it puts a lot of wonder
08:18:09 9 and suspicion in the minds of the parents.

08:18:14 10 Q. (BY MR. CASPAR) And do you recall testifying, sir, that
08:18:18 11 Hearne has developed a reputation for poor discipline?

08:18:24 12 A. Yes, sir.

08:18:25 13 THE COURT: When you say "discipline," do you mean lack
08:18:29 14 of discipline?

08:18:31 15 Q. (BY MR. CASPAR) Do you mean lack of discipline? Do you mean
08:18:33 16 misbehaving students?

08:18:36 17 A. A reputation for having discipline problems.

08:18:39 18 Q. A reputation for having misbehaving students.

08:18:42 19 A. Well, yes, sir, there are some misbehaving students in
08:18:46 20 Hearne.

08:18:46 21 Q. Well, you testified earlier that Hearne had developed a
08:18:49 22 reputation for having misbehaving students or poor discipline.
08:18:54 23 Do you remember that?

08:18:57 24 A. I did not know that I was saying that. I didn't mean to
08:19:00 25 state that that way, if I did.

08:19:04 1 Q. Do you believe that discipline problems at Hearne have been
08:19:08 2 worse in recent years?

08:19:12 3 A. When I was still working, possibly they were -- there were
08:19:20 4 more problems, but I would say this: The problems were dealt
08:19:23 5 with.

08:19:26 6 Q. Do you believe the problem -- well, when you were still
08:19:29 7 working, were you referring to while you were a superintendent?

08:19:33 8 A. Yes, sir.

08:19:34 9 Q. And the transfers had been going on for a long time before
08:19:36 10 that, haven't they?

08:19:38 11 A. Oh, yes, sir.

08:19:42 12 Q. Do you think the transfers played a role in creating
:19:45 13 Hearne's bad reputation for discipline?

08:19:50 14 MR. FELDMAN: Objection, your Honor. Calls for a
08:19:51 15 conclusion.

08:19:52 16 THE COURT: The objection's overruled.

08:19:54 17 A. Yes, sir. I think it has some bearing on it.

08:19:57 18 Q. (BY MR. CASPAR) How so?

08:19:58 19 A. Because seems like to me the students who were left there, a
08:20:06 20 lot of those were more challenging to get to comply with the
08:20:13 21 rules, and you just have, seemingly, more of those to deal with.

08:20:25 22 Q. And is it based on your personal observations and
08:20:29 23 experiences, Mr. McDaniel, that you believe the higher performing
08:20:34 24 students at Hearne have been transferring away?

08:20:36 25 A. Yes, sir, some of them have.

08:20:38 1 Q. That's based on your own personal observations and
08:20:41 2 experiences?

08:20:43 3 A. Yes.

08:20:50 4 Q. I have no further questions. Thank you, Mr. Hearne.

08:20:56 5 CROSS-EXAMINATION

08:21:00 6 BY MR. HEPWORTH:

08:21:00 7 Q. I have only a couple of questions.

08:21:03 8 When you mentioned that you went away from the ability
08:21:07 9 grouping, you said TEA addressed that. Did they talk about
08:21:10 10 whether or not they were going to allow ability grouping for your
08:21:14 11 other campuses, for example, the East --

08:21:19 12 A. No, sir. They asked East Side to not ability group. They
08:21:23 13 asked them to stop.

08:21:25 14 Q. Told East Side do not ability group anymore?

08:21:28 15 A. Yes, sir.

08:21:28 16 Q. And this was around 1990?

08:21:30 17 A. Yes, sir.

08:21:34 18 Q. You were asked about how many administrators are at H I.S.D.
08:21:39 19 And then, you were asked about Mumford's administrator, and they
08:21:42 20 represented there was not one. Isn't it true that when you had
08:21:44 21 mentioned your administrators, you included your business
08:21:47 22 manager, didn't you?

08:21:48 23 A. Yes, sir.

08:21:48 24 Q. Isn't it true that Mumford also has a business manager?

08:21:52 25 A. I'm not sure, sir.

08:21:53 1 Q. Or isn't Barbara Brannon the business manager?

08:21:56 2 A. I'd heard that, yes, sir.

08:21:57 3 Q. Okay. So they probably have two --

08:21:59 4 A. Yes, sir.

08:22:02 5 Q. -- sixth-grade teachers at Blackshear, when you were there,
08:22:05 6 and having these transfer problems?

08:22:07 7 A. Yes, sir.

08:22:07 8 Q. What race were they?

08:22:08 9 A. They were African-American.

08:22:10 10 Q. Did you have any problems with the fact that all sixth-grade
08:22:12 11 teachers were African-American?

08:22:15 12 A. Yes, sir. There were parents who -- that was in 1992 that
08:22:18 13 most -- for that time, the biggest number left us, left our sixth
08:22:24 14 grade. They moved -- they did not go to our sixth grade.

08:22:30 15 Q. Okay. Did you presume that that was because there were no
08:22:32 16 white teachers at sixth grade?

08:22:35 17 A. Yes, sir. This is what some of the parents said.

08:22:37 18 Q. You said Hearne board members went door-to-door. What race
08:22:39 19 were those board members?

08:22:41 20 A. They were white.

08:22:43 21 Q. Thank you.

08:22:44 22 A. Yes, sir.

08:22:49 23 THE COURT: Any further cross-examination?

08:22:51 24 MR. FELDMAN: Yes, your Honor.

08:22:54 25

RE-CROSS EXAMINATION

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BY MR. FELDMAN:

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Q. You said the transfers that occurred in 1992 were the result of having all black teachers in the sixth grade?

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A. Some of the parents said that was the reason.

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Q. You have no evidence to indicate that any transfers were going to Mumford at that time, do you?

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A. Not when I left, no, sir. I found out later on that some did.

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Q. No. Do you know of any information, any data that shows that students from Hearne were actually transferring to Mumford I.S.D. in 1992?

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A. Only what -- when the records request would come in for records when I was principal, but I don't have --

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Q. How many requests did you get?

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A. I don't have those numbers in my mind. I don't remember those. That was 1992.

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Q. You also testified that a board member by the name of Jerry Henry transferred his child to Mumford while he was a board member?

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A. Yes, sir.

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Q. And now, you don't have any information to show that Mumford had anything to do with that, do you?

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A. No, sir.

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25

Q. And do you know why Mr. Henry transferred his child while he

08:24:12 1 was a board member?

08:24:15 2 A. He didn't tell me. No, sir.

08:24:18 3 Q. Did he not report to you that his daughter's name was
08:24:22 4 Chastity, that two years in a row, she had significant problems
08:24:26 5 with scheduling at Hearne and that's why he transferred?

08:24:32 6 MR. HEPWORTH: He said he didn't know. This is just
08:24:33 7 testifying into the record someone who said he didn't know why
08:24:36 8 someone transferred.

08:24:39 9 MR. FELDMAN: I'm seeking to refresh his recollection,
08:24:40 10 your Honor.

08:24:40 11 THE COURT: I overrule it.

08:24:42 12 Q. (BY MR. FELDMAN) Do you recall that that there was an issue
08:24:43 13 with respect to the scheduling of his student?

08:24:47 14 A. No, sir, I don't.

08:24:47 15 Q. Do you know a Reverend Mack?

08:24:49 16 A. Yes, I do.

08:24:49 17 Q. And Reverend Mack was in an assistant principal at Hearne
08:24:59 18 I.S.D. at one time?

08:25:00 19 A. Yes, sir.

08:25:00 20 Q. And he is also a board member?

08:25:03 21 A. Yes, sir.

08:25:03 22 Q. Is he a board member currently?

08:25:05 23 A. Yes, sir.

08:25:06 24 Q. And how long has he been a board member?

08:25:08 25 A. Oh, I think he says about 18 years, or somewhere

08:25:12 1 thereabouts.

08:25:13 2 Q. And Reverend Mack is black?

08:25:15 3 A. Yes, sir.

08:25:15 4 Q. And Reverend Mack has a grandchild who transferred from
08:25:18 5 Hearne to Mumford; is that the case? Are you aware of that?

08:25:24 6 A. I don't know that the child was already in Hearne. I know
08:25:26 7 that the child went to pre-K, went to Mumford.

08:25:32 8 Q. But do you know --

08:25:33 9 A. Yes. I know his child went to --

08:25:35 10 Q. And Reverend Mack -- that grandchild lives in Hearne, does
08:25:39 11 she not?

08:25:39 12 A. No.

08:25:40 13 Q. She does not?

08:25:41 14 A. No.

08:25:42 15 Q. Where does she live?

08:25:44 16 A. Hammond.

08:25:45 17 THE COURT: Where?

08:25:46 18 THE WITNESS: Hammond.

08:25:49 19 Q. (BY MR. FELDMAN) And she's transferred from Hammond to --

08:25:51 20 A. Oh, no. This was years, years ago. I think she still lives
08:25:56 21 -- she didn't live in Hearne at the time, then, I don't think.

08:25:58 22 Q. But do you agree she's gone through the Mumford schools?

08:26:01 23 A. Oh, yeah -- well, no, sir. I don't know that. But I see
08:26:05 24 her all the time.

08:26:06 25 Q. Nothing further, your Honor.

08:26:07 1 THE COURT: Any further cross-examination?

08:26:12 2 MS. HANSEN: None, your Honor.

08:26:13 3 THE COURT: Any more redirect?

08:26:15 4 MR. CASPAR: No, your Honor.

08:26:16 5 THE COURT: Do you want to retain this witness on the

08:26:18 6 attendance of the Court, or shall he be finally excused?

08:26:21 7 MR. CASPAR: Your Honor, he can be finally excused.

08:26:24 8 MR. FELDMAN: Finally excused, your Honor.

08:26:26 9 MS. HANSEN: We concur, your Honor.

08:26:28 10 THE COURT: You're excused, sir. You may return home,

08:26:30 11 if you so desire.

08:26:33 12 THE WITNESS: Thank you, sir.

08:26:34 13 THE COURT: All right. Who will be the next witness

08:26:35 14 for the plaintiff?

08:26:38 15 MR. GUZMAN: Your Honor, next witness will be Caroline

08:26:41 16 Reed.

08:27:16 17 THE COURT: Is this a witness?

08:27:21 18 MR. GUZMAN: Yes, it is.

08:27:22 19 THE COURT: Come forward, ma'am. Please raise your

08:27:28 20 right hand and be sworn.

08:27:29 21 (Witness was sworn.)

08:27:37 22 THE COURT: Here's the witness stand right over here.

08:27:50 23 CAROLINE REED, called by the Plaintiff, duly sworn.

08:27:50 24

08:27:50 25

DIRECT EXAMINATION

08:27:50 1

08:27:51 2 BY MR. GUZMAN:

08:27:51 3 Q. Ms. Reed, good afternoon.

08:27:53 4 A. Good afternoon.

08:27:53 5 Q. Could you please state your full name for the record,

08:27:55 6 please?

08:27:55 7 A. Caroline Joyce Reed.

08:27:57 8 Q. Ms. Reed, what is your occupation?

08:28:00 9 A. I am a high school principal.

08:28:01 10 Q. And where are you a high school principal?

08:28:03 11 A. At Hearne.

08:28:05 12 Q. Is that at the Hearne High School?

08:28:07 13 A. Yes.

08:28:08 14 Q. How long have you held that position?

08:28:10 15 A. Since August.

08:28:12 16 Q. August of 2004?

08:28:13 17 A. Correct.

08:28:14 18 Q. This is your first year; is that right?

08:28:16 19 A. As the high school principal.

08:28:18 20 Q. What job did you hold before becoming high school principal

08:28:20 21 at Hearne I.S.D?

08:28:22 22 A. I was the Blackshear Elementary principal for eight years.

08:28:27 23 Q. Have you held any other positions with the Hearne I.S.D?

08:28:30 24 A. No.

08:28:32 25 Q. Do you live in Hearne?

08:28:34 1 A. Yes, throughout the week. I have a primary residence out of
08:28:38 2 Richards, and I keep a residence in Hearne, stay up there most
08:28:42 3 all week.

08:28:43 4 THE COURT: Where is Richards?

08:28:45 5 THE WITNESS: Close to Huntsville.

08:28:47 6 THE COURT: How far do you have to go?

08:28:48 7 THE WITNESS: Sixty-five miles.

08:28:52 8 Q. (BY MR. GUZMAN) Do you do that every week, report to school?

08:29:11 9 A. Yes.

08:29:11 10 Q. Are there occasions when you spend weekends in Hearne?

08:29:11 11 A. Yes.

08:29:11 12 Q. And why is that? Or for what reasons do you do that?

08:29:13 13 A. To attend some of the community functions and to go to
08:29:16 14 athletic events, UIL competition, which is the University
08:29:21 15 Interscholastic League competition for our students to go on
08:29:24 16 field trips, band concerts, one-act plays, anything that pertains
08:29:30 17 to school.

08:29:33 18 Q. Can you give us an estimate of how many weekends you might
08:29:35 19 end up staying in Hearne, as opposed to going back home to
08:29:38 20 Richards?

08:29:40 21 A. No. This year, in particular, with the high school, there
08:29:43 22 have been probably ten weekends, at least, that my husband and I
08:29:49 23 will come back for some of the functions.

08:29:51 24 Q. Can you give the Court just sort of a general overview of
08:29:56 25 your day-to-day responsibilities as principal at Hearne High

08:30:01 1 School?

08:30:01 2 A. Well, I'm in charge of all the instruction. I deal with
08:30:05 3 parents. I deal with the staff. I stay abreast of all policies
08:30:11 4 and procedures in our district. Day-to-day routine of running
08:30:17 5 the school board.

08:30:19 6 Q. Is your contact with parents and students -- does this occur
08:30:22 7 on a daily basis?

08:30:24 8 A. Yes, sir.

08:30:24 9 Q. What kinds of issues will arise when you're dealing with
08:30:28 10 students and parents as principal of Hearne High School?

08:30:32 11 A. I meet with parents concerning grades, concerning discipline
08:30:36 12 problems, concerning especially with high school graduation,
08:30:42 13 credits that the students have. I meet with students. I always
08:30:48 14 do a lunch duty so that I can have more contact with the
08:30:51 15 students.

08:30:52 16 Q. Have your duties changed significantly as principal of
08:30:56 17 Hearne High School, as compared when you were principal of
08:30:58 18 Blackshear?

08:31:00 19 A. Running the school is basically the same, but yes, it is
08:31:01 20 different with high school, and there are a lot more extra
08:31:08 21 activities involved in the high school.

08:31:11 22 Q. What about the level of involvement with parents and
08:31:15 23 students? How does it compare, your stint at Blackshear compared
08:31:18 24 to the high school?

08:31:19 25 A. About the same. I dealt with parents throughout my time at

08:31:23 1 Blackshear.

08:31:26 2 Q. Where did you work before coming to Hearne?

08:31:29 3 A. I worked in Montgomery for 17 years.

08:31:33 4 Q. And what were you doing at Montgomery? Is it also a school
08:31:37 5 district?

08:31:38 6 A. Yes. It's a school district. I taught the first twelve
08:31:40 7 years I was there and was assistant principal the last five.

08:31:45 8 Q. And how far is Montgomery from Hearne, or are they generally
08:31:51 9 approximately by each other?

08:31:53 10 A. About 70 miles, 75 miles, at most.

08:31:56 11 Q. How would you compare the Montgomery School District to the
08:32:00 12 Hearne District, for example, in terms of affluence?

08:32:04 13 A. Montgomery I.S.D. is a fairly affluent district. We pulled
08:32:09 14 students from the Lake Conroe area, some resort areas. And
08:32:13 15 Hearne is a minority district with a lower socioeconomic base
08:32:21 16 than Montgomery.

08:32:22 17 Q. And what about Montgomery's minority enrollment? Is it --
08:32:28 18 would you consider it to be high or low minority enrollment?

08:32:32 19 A. It's low. We were less than 15 percent.

08:32:37 20 THE COURT: I take it Montgomery's in Montgomery
08:32:39 21 County?

08:32:40 22 THE WITNESS: Yes, sir.

08:32:43 23 Q. (BY MR. GUZMAN) How would you compare the discipline issues
08:32:52 24 or the discipline environment that you dealt with, or worked
08:32:55 25 with, at Montgomery compared to what you worked with in Hearne

08:32:59 1 both as a principal of the elementary school and at the high
08:33:00 2 school?

08:33:03 3 MR. FELDMAN: Objection, your Honor. Irrelevant as to
08:33:03 4 the -- anything that occurred in Montgomery High School.

08:33:06 5 THE COURT: Well, I'm letting everything in. I
08:33:13 6 overrule the objection. Go ahead.

08:33:15 7 Q. (BY MR. GUZMAN) Did you understand my question?

08:33:18 8 A. Yes. I dealt with basically the same issues as the
08:33:21 9 assistant principal of Montgomery. And the issues I dealt with
08:33:26 10 in Hearne, classroom disruptions, sometimes disrespect to the
08:33:30 11 teachers, basically, those same kind of issues.

08:33:35 12 Q. Did you find that the issues were more serious or more
08:33:38 13 pervasive in Hearne compared to Montgomery?

08:33:41 14 A. No.

08:33:42 15 MS. JUREN: Objection. Leading.

08:33:44 16 THE COURT: Did I hear an objection?

08:33:46 17 MS. JUREN: Objection. Leading.

08:33:48 18 THE COURT: I'll overrule the objection.

08:33:53 19 Q. (BY MR. GUZMAN) What made you -- if I may ask, what made you
08:33:57 20 decide to leave Montgomery School District for Hearne School
08:34:00 21 District?

08:34:01 22 A. I had been in the system for five years and Montgomery at
08:34:07 23 that time was in the mid -- we had changed superintendents
08:34:19 24 several times, and I began to look for a principal position, and
08:34:19 25 I was looking for one somewhere within an hour of my home and

08:34:19 1 Hearne was available when I applied there. And I knew that
08:34:26 2 Hearne was a predominantly minority district, but that didn't
08:34:31 3 bother me. I feel like that every child deserved an education,
08:34:35 4 and I was willing to go and try to do what I could.

08:34:39 5 Q. At the time that you were applying for the principal
08:34:40 6 position at Blackshear and Hearne, were you aware of any
08:34:44 7 reputation that the Hearne District had either for academic
08:34:47 8 performance or other issues similar to that?

08:34:50 9 MR. FELDMAN: Objection, your Honor. Lack of
08:34:52 10 foundation.

08:34:54 11 THE COURT: You might establish the foundation.

08:34:59 12 MR. GUZMAN: Sure.

3:35:00 13 Q. (BY MR. GUZMAN) In your time working at the Montgomery
08:35:02 14 School District, you testified that you spent 17 years there; is
08:35:04 15 that correct?

08:35:04 16 A. Correct.

08:35:06 17 Q. At that time, over the course of your work at Montgomery,
08:35:08 18 did you come into interaction with other school districts within
08:35:11 19 the area?

08:35:17 20 A. Yes.

08:35:18 21 Q. What kind of interaction would that be, if you could
08:35:20 22 describe for the Court?

08:35:24 23 A. Well, we were all in a Region 6, which is the Region 6
08:35:29 24 Educational Service Center, and so, we had meetings and
08:35:33 25 conferences and all with other schools within that region.

08:35:37 1 Q. Would it give you an opportunity to meet and discuss issues
08:35:41 2 with officials from other school districts within the region?

08:35:45 3 A. Yes.

08:35:47 4 Q. Your Honor, based on --

08:35:50 5 THE COURT: Go ahead and answer the question.

08:35:53 6 Q. (BY MR. GUZMAN) If I could go back to the question I'd
08:35:56 7 originally asked you.

08:35:58 8 Did there come a time when you had applied for the
08:36:01 9 principal position at Blackshear, did you have any understanding
08:36:04 10 as to what reputation the Hearne School District enjoyed with
08:36:08 11 respect to its academics or its ability to have a conducive
08:36:13 12 learning environment?

08:36:15 13 A. Yes.

08:36:15 14 Q. And can you describe for the Court what that reputation was?

08:36:20 15 A. The reputation of Hearne was perceived to be a school with a
08:36:25 16 lot of discipline problems and low academic standing. And
08:36:32 17 usually people would ask me why I would go there, considering
08:36:36 18 that it was a African-American district.

08:36:39 19 Q. And what was your answer?

08:36:43 20 A. That it didn't matter to me that kids are kids, and I wanted
08:36:47 21 to go and see what I could do to help them have a successful
08:36:51 22 educational career.

08:36:53 23 Q. And were your expectations fulfilled over the course of your
08:36:57 24 tenure at Blackshear?

08:36:59 25 A. Yes. I've enjoyed every year I was at Blackshear.

08:37:03 1 Q. Did you find that either Blackshear or the Hearne School
08:37:07 2 District, in general, lived up to the reputation that you believe
08:37:10 3 it had at the time you were applying for the job?

08:37:14 4 A. No.

08:37:21 5 Q. Have you worked at any other school districts other than
08:37:24 6 Montgomery and Hearne?

08:37:25 7 A. Yes. When I graduated from college, I worked four years in
08:37:30 8 Navasota. And from Navasota, I went to Cy-Fair and taught at
08:37:36 9 Matzke Elementary for three years.

08:37:38 10 Q. Now, tell us a little bit about the Navasota School
08:37:42 11 District. Is that -- would you describe it as a rural district
08:37:46 12 or suburban or --

08:37:48 13 A. It's rural. It's about, I would say, about 40 miles from
08:37:52 14 Hearne, and at that time, we were about 55-percent white and
08:38:00 15 45-percent black.

08:38:01 16 Q. And the position you held at Navasota was a teaching job?

08:38:06 17 A. Yes.

08:38:06 18 Q. What grade were you teaching or grades?

08:38:08 19 A. I taught third grade and first grade.

08:38:12 20 Q. And did your job at Navasota bring you in contact with
08:38:18 21 significant numbers of minority students?

08:38:19 22 A. Yes.

08:38:20 23 Q. And are we talking about black students, or Hispanic, or
08:38:22 24 Asian students?

08:38:23 25 A. At that time, predominantly black students.

08:38:28 1 Q. How would you compare the discipline problems you
08:38:31 2 encountered in Navasota, during your time there, to the
08:38:35 3 discipline problems you encountered at Blackshear elementary?
08:38:39 4 MR. FELDMAN: Objection. Relevance, your Honor.
08:38:40 5 THE COURT: I overrule that objection.
08:38:44 6 A. About the same. Same type of discipline problems as we have
08:38:48 7 today in Hearne.
08:38:52 8 Q. (BY MR. GUZMAN) Comparable between the two districts?
08:38:54 9 A. Yes.
08:38:54 10 Q. You said you also spent time at the Cy-Fair School District?
08:38:58 11 A. Yes.
08:38:58 12 Q. What type of district is that? Is it -- as before, urban,
08:39:03 13 suburban, rural?
08:39:05 14 A. It's suburban on the northwest side of Houston, and I taught
08:39:08 15 in a very affluent school there.
08:39:11 16 Q. More affluence than the schools you work out at Hearne?
08:39:14 17 A. Yes.
08:39:15 18 Q. Significantly so?
08:39:15 19 A. Yes. We pull from homes -- and this was in the late '70s,
08:39:33 20 and we pulled from homes of \$90,000 and above then. So it was a
08:39:33 21 very affluent area.
08:39:33 22 Q. What about the minority enrollment at Cy-Fair? How did it
08:39:36 23 compare to the minority enrollment at Hearne?
08:39:38 24 A. It was very low. We had about a thousand students at our
08:39:41 25 elementary, and approximately 40 students were black, and no

08:39:47 1 Hispanic at that time.

08:39:51 2 Q. How would you compare the discipline problems you
08:39:55 3 encountered when you were working at Cy-Fair than when you were
08:40:01 4 at Hearne?

08:40:02 5 A. About the same, the same type of things. Some students were
08:40:06 6 disruptive in class, some students were somewhat disrespectful,
08:40:09 7 but I really never encountered any major discipline problems in
08:40:15 8 any of the schools I've worked in.

08:40:19 9 Q. During your time as principal of Blackshear, did teachers
08:40:22 10 enjoy teaching there?

08:40:24 11 A. Yes.

08:40:27 12 Q. And why is it that -- why do you say that? What's your
08:40:30 13 basis for saying so?

08:40:33 14 A. Well, because the last four years I was there, we had very
08:40:36 15 little turnover rate. We lost maybe four teachers one year and
08:40:40 16 then, two and then, none. Each year after we had -- I had been
08:40:47 17 established there, and we became a family, which is really what
08:40:52 18 we were, actually.

08:40:55 19 THE COURT: You became a what?

08:40:56 20 THE WITNESS: More of a family-type situation, and the
08:40:59 21 teachers loved working there.

08:41:01 22 Q. (BY MR. GUZMAN) And just so we have an idea. How large was
08:41:03 23 the staff, generally speaking, in your time at Blackshear?

08:41:07 24 A. Approximately 33 teachers.

08:41:10 25 Q. And in your time -- the briefer time that you spent at the

08:41:15 1 high school, what has been your impression of the teachers there?

08:41:19 2 Did they enjoy working in that environment, as well?

08:41:19 3 A. Yes. When I came to the high school in August, they had not

08:41:23 4 had any turnover in the summer.

08:41:25 5 Q. So every teacher from last year had to come back and teach?

08:41:35 6 A. Correct.

08:41:36 7 Q. Has there come a time during your tenure at Hearne when you

08:41:41 8 became aware of this issue of transfer students leaving Hearne to

08:41:45 9 go to Mumford and other places?

08:41:48 10 A. Yes. The first year I was in Hearne, I had probably been

08:41:52 11 there about six to eight weeks when a parent came and asked me

08:41:56 12 how they could transfer their child to Mumford.

08:41:59 13 Q. And you said you've been in Hearne approximately nine years,

08:42:03 14 correct?

08:42:03 15 A. Yes. I went there in 1996.

08:42:06 16 Q. Okay. And what was the discussion that ensued with the

08:42:12 17 parent?

08:42:14 18 A. Well, I told them I didn't know how to transfer a student to

08:42:16 19 Mumford. I didn't know anything about Mumford because I worked

08:42:20 20 for Hearne. And they asked me how to get the student on the bus

08:42:25 21 that went to Mumford and that came in our district. And I said,

08:42:29 22 well, there wasn't a bus that came in our district. And they

08:42:33 23 said, yes, there's a bus that loads every day, and that was the

08:42:36 24 first time that I knew that that happened.

08:42:41 25 Q. Was there any discussion about the reasons why parents

08:42:43 1 wanted to transfer from Hearne to Mumford?

08:42:48 2 MR. FELDMAN: Objection, your Honor. Hearsay.

08:42:50 3 THE COURT: The objection's overruled.

08:42:52 4 A. One parent told me that she really wanted to move her son
08:42:58 5 because she didn't want him going to school with the students
08:43:03 6 with the culture that we had at Hearne.

08:43:08 7 Q. (BY MR. GUZMAN) Did you have an understanding as to what she
08:43:09 8 meant by the culture?

08:43:12 9 MS. JUREN: Objection. Calls for speculation.

08:43:14 10 THE COURT: The objection's overruled.

08:43:18 11 A. Well, she didn't want her child with the minority students.
08:43:23 12 And then, the others that wouldn't say anything to me -- usually
08:43:27 13 they just took their child. A couple told me that they were
08:43:29 14 taking their children to go with their friends.

08:43:33 15 THE COURT: To go with what?

08:43:33 16 THE WITNESS: Their friends to another district.

08:43:33 17 Q. (BY MR. GUZMAN) You mentioned one parent. Were there other
08:43:41 18 parents where this issue of the transfer of their children from
08:43:44 19 Hearne to Mumford would arise with you?

08:43:47 20 A. Yes.

08:43:51 21 Q. Could you estimate how many times this would occur, or has
08:43:54 22 occurred, I should say?

08:43:58 23 A. Probably about -- through the years, about four parents that
08:44:02 24 came and talked to me, usually it was just they just transferred.

08:44:11 25 Q. Did the issue about parents threatening to transfer students

08:44:14 1 from -- their students from Hearne to Mumford come up in other
08:44:18 2 contexts in your time at Hearne?

08:44:20 3 A. That still happens today. They get unhappy with something
08:44:24 4 that we're doing whether it be discipline, whether it be grades,
08:44:28 5 whether it be a teacher, they'll just tell us, well, that's okay,
08:44:31 6 we'll just take them to Mumford.

08:44:42 7 Q. That's been your experience at the high school?

08:44:42 8 A. Yes. I did have a parent tell me that.

08:44:42 9 Q. What about at the elementary school while you were there?

08:44:42 10 A. Yes, we heard that every year.

08:44:47 11 Q. Based on the time that you've spent in Hearne as principal
08:44:53 12 at both schools and in the community, how would you describe how
08:44:58 13 the Hearne community perceives its school district in racial
08:45:02 14 terms?

08:45:05 15 A. The community overall perceives it as a predominantly black
08:45:12 16 district. At my high school, I have 64-percent black students
08:45:21 17 and less than ten-percent white.

08:45:24 18 MR. FELDMAN: I'm sorry. I couldn't hear the witness,
08:45:25 19 your Honor.

08:45:26 20 THE COURT: Repeat your answer, please, ma'am.

08:45:28 21 THE WITNESS: I said at the high school I have
08:45:30 22 approximately 64-percent black students and less than ten-percent
08:45:33 23 white. Right at ten percent.

08:45:35 24 Q. (BY MR. GUZMAN) And what is your basis for saying that, that
08:45:35 25 the Hearne community perceives its school district to be

08:45:37 1 predominantly black?

08:45:40 2 A. Because that's the students they see that go to Hearne. We
08:46:00 3 don't have very many white students in our classes.

08:46:03 4 Q. Was there a time -- well, let me ask this question, at least
08:46:07 5 with respect to Blackshear. Were there more white students at
08:46:11 6 Blackshear Elementary School when you began working there as
08:46:14 7 principal in '96 compared to the last year you were there as
08:46:18 8 principal?

08:46:18 9 A. Yes.

08:46:25 10 Q. Do you have any basis to -- as to why that number declined
08:46:30 11 during that period of time?

08:46:31 12 A. Well, the number has declined because they're transferring
08:46:36 13 out to another district.

08:46:40 14 Q. One of those districts include Mumford?

08:46:42 15 A. Yes.

08:46:46 16 Q. You mentioned earlier in your testimony about buses that
08:46:50 17 Mumford would send into Hearne --

08:46:53 18 THE COURT: Raise your voice up, sir.

08:46:56 19 Q. (BY MR. GUZMAN) I'm sorry. Ms. Reed, I was saying that you
08:46:58 20 testified earlier about an episode involving buses from Mumford
08:47:01 21 coming into Hearne to pick up students.

08:47:04 22 A. Correct.

08:47:05 23 Q. How is it you became aware -- well, first of all, let me ask
08:47:08 24 you, just so I'm clear, is that something you're aware is
08:47:11 25 occurring?

08:47:11 1 A. Yes. I know it is occurring.

08:47:14 2 Q. How long has this practice gone on, so far as you know?

08:47:18 3 A. It was occurring there in 1996, when I came there.

08:47:24 4 Q. And when you came there, how many buses were involved?

08:47:28 5 A. I think there were two.

08:47:31 6 THE COURT: Were there two separate routes, or were
08:47:33 7 they just two buses going on the same route?

08:47:36 8 THE WITNESS: They would have been the same route
08:47:38 9 because there's only one way to go to Mumford. But they loaded
08:47:42 10 it two different locations.

08:47:42 11 THE COURT: I see.

08:47:44 12 Q. (BY MR. GUZMAN) Has the number of buses -- if you know, has
08:47:44 13 the number of buses that Mumford sends into Hearne to pick up
08:47:47 14 students increased from two?

08:47:58 15 A. Yes.

08:47:59 16 Q. How many buses does Hearne send -- or, excuse me. How many
08:48:04 17 buses does Mumford send into Hearne today?

08:48:08 18 A. I think there are five.

08:48:10 19 Q. How is it that you came --

08:48:12 20 THE COURT: How many?

08:48:12 21 THE WITNESS: Five.

08:48:17 22 Q. (BY MR. GUZMAN) Do these five buses use different pickup
08:48:20 23 points, or are they picking students up at the same location?

08:48:23 24 A. At different pick-up points.

08:48:24 25 Q. How is it that you came to learn about this practice of

08:48:29 1 Mumford sending buses into the Hearne School District?

08:48:34 2 A. As I said, the parent asked me how to get her child on the
08:48:38 3 bus back in 1996, and then, I see the buses every morning.

08:48:43 4 Q. You've actually seen the buses come in?

08:48:45 5 A. Yes.

08:48:45 6 Q. How do you know that they're Mumford buses?

08:48:48 7 A. Because they say "Mumford I.S.D."

08:48:58 8 Q. In your time, again, in the Hearne School District, what
08:49:02 9 effects have you seen that the practice of students transferring
08:49:06 10 from Hearne to Mumford has had on the Hearne School District?

08:49:13 11 A. Well, I feel that it has lowered our academics because when
08:49:20 12 they have run ads in the newspapers saying that they'll only take
08:49:24 13 certain students, students with no discipline problems, no
08:49:28 14 attendance problems, or that can pass TAKS, it leaves us with the
08:49:35 15 students who are struggling and need a lot more help than others.
08:49:39 16 And so, our schools are not what we'd like them to be.

08:49:43 17 Q. And, I'm sorry. You said TAKS. T-A-K-S?

08:49:45 18 A. Yes.

08:49:48 19 THE COURT: Texas assessment of what?

08:49:50 20 THE WITNESS: Texas Assessment of Knowledge.

08:49:52 21 MR. FELDMAN: And Skills.

08:49:53 22 THE WITNESS: And Skills.

08:49:56 23 Q. (BY MR. GUZMAN) In addition to the question of academic
08:49:57 24 performance, have there by other areas where the transfers of
08:50:10 25 students from Hearne to Mumford have adversely affected the

08:50:12 1 Hearne School District?

08:50:16 2 A. I think it's -- what I see is it creates a racial division
08:50:30 3 in Hearne because your school is normally the focal point of a
08:50:30 4 small community, and nothing is being done with the transfer
08:50:31 5 issue to help us to bring the community together in more of a
08:50:38 6 community atmosphere.

08:50:41 7 Q. This division, you believe, extends beyond the schools into
08:50:45 8 the Hearne community itself?

08:50:46 9 A. Yes. I really didn't realize how many white students were
08:50:49 10 in Hearne until I had attended some little league ball games and
08:50:54 11 saw the numbers. There are quite a few white students that I
08:50:57 12 didn't even know existed.

3:50:59 13 Q. And this was a little league game you attended where?

08:51:02 14 A. In Hearne.

08:51:06 15 THE COURT: What is the population of Hearne about?

08:51:08 16 THE WITNESS: About 5,000.

08:51:12 17 THE COURT: Has it varied in population through the
08:51:14 18 years, since you've known it? I mean, is it getting bigger, or
08:51:18 19 smaller, or what?

08:51:20 20 THE WITNESS: I think population has probably declined
08:51:22 21 a little bit, since I first knew of Hearne.

08:51:28 22 MR. GUZMAN: Your Honor, I have no further questions of
08:51:30 23 the witness at this time.

08:51:32 24 THE COURT: All right. You may cross-examine the
08:51:33 25 witness.

08:51:36 1 MR. FELDMAN: Yes, your Honor.

08:51:37 2 CROSS-EXAMINATION

08:51:47 3 BY MR. FELDMAN:

08:51:47 4 Q. Ms. Reed, my name is David Feldman, and I represent Mumford
08:51:49 5 Independent School District. I have a few questions for you
08:51:53 6 based on the testimony that you just gave on direct examination.

08:51:56 7 You made the statement that when you applied to become
08:51:59 8 the principal at Blackshear in '96.

08:52:03 9 A. Yes, sir.

08:52:04 10 Q. I guess it was for the '96-'97 school year, and that you
08:52:16 11 were teaching at Montgomery, assistant principal at Montgomery
08:52:22 12 I.S.D. at that time?

08:52:24 13 A. Yes.

08:52:24 14 Q. Or you learned, or it was told to you, that the reputation
08:52:29 15 of Hearne was that it was a black school district or an
08:52:33 16 African-American school district. Is that your testimony?

08:52:38 17 A. Yes. That was what was said about the district.

08:52:43 18 Q. And when you got there, did you find that to be the case?

08:52:48 19 A. Yes.

08:52:50 20 Q. To you, what is a black or African-American school district?

08:52:59 21 A. Well, it's termed that to me if the majority of your
08:53:02 22 students are of one ethnic group, or black.

08:53:05 23 Q. So if more than 50 percent are black, then it's a black
08:53:10 24 school district, in your view?

08:53:16 25 A. That is not what I -- well, yes. That would be the term

08:53:19 1 we'd use. It would be a predominantly black school district.

08:53:23 2 Q. Well, I was just -- you used this terminology. I just want
08:53:25 3 to make sure I understand the terminology.

08:53:29 4 Your understanding of that term means it is more than
08:53:32 5 50-percent black, it's a black school district? If it's more
08:53:36 6 than 50-percent Hispanic, it's a Hispanic school district? And
08:53:39 7 if it's more than 50-percent white, it's a white school district?

08:53:42 8 A. Well, I'll clarify. It would be a predominantly black
08:53:46 9 school district.

08:53:47 10 Q. Well, what does that mean to be predominantly black? Is
08:53:53 11 that a --

08:53:54 12 A. It would be your largest number of students.

08:53:56 13 Q. So 50.0001-percent black would make it predominantly black?

08:54:05 14 A. If you looked at it statistically, I guess it would. But
08:54:09 15 that would be more of an even number if you had 50 percent of
08:54:11 16 something else.

08:54:13 17 Q. Well, in answer to Mr. Guzman's questions, you were using
08:54:13 18 terminology like it was predominantly black or it was a black
08:54:25 19 school district. I'm just trying to understand when you use
08:54:29 20 those terms, are you saying 50 percent plus one means predominant
08:54:34 21 or majority?

08:54:36 22 A. It would be majority.

08:54:38 23 Q. And would that make it a predominantly black school
08:54:50 24 district?

08:54:50 25 A. Not when you're looking at the students, but if you're

08:54:53 1 looking on paper, I guess it would be.

08:54:56 2 Q. Not when you're looking at students?

08:54:58 3 THE COURT: Let me interject. When you arrived there,
08:55:01 4 you learned about the percentages of students who were black and
08:55:07 5 the percentages of those who were white, and maybe the percentage
08:55:12 6 that were Latino.

08:55:14 7 THE WITNESS: Yes, sir.

08:55:14 8 THE COURT: And what were those percentages, as best
08:55:17 9 you can remember?

08:55:19 10 THE WITNESS: At that time, probably about 57-percent
08:55:22 11 black and about 13-percent white.

08:55:28 12 THE COURT: Thirteen percent?

08:55:31 13 THE WITNESS: The best I remember.

08:55:32 14 THE COURT: What about the Mexican-Americans, or
08:55:34 15 Hispanics, or Latinos, whatever you want to call them, when you
08:55:44 16 arrived?

08:55:46 17 THE WITNESS: I'd say about maybe 30 percent.

08:55:49 18 THE COURT: All right.

08:55:49 19 THE WITNESS: But that's 1996.

08:55:53 20 THE COURT: I understand.

08:55:54 21 THE WITNESS: But it was close to that.

08:55:56 22 Q. (BY MR. FELDMAN) Would it surprise you that in 1996, based
08:56:07 23 on evidence presented by the United States in this case, Exhibit
08:56:07 24 237, that the African-American student enrollment was 52 percent,
08:56:11 25 the Hispanic student enrollment was 24.36 percent, and the white

08:56:16 1 enrollment was 23-and-a-half percent? Would that surprise you?

08:56:19 2 A. Yes, because I'm speaking probably from Blackshear, which is

08:56:19 3 our school.

08:56:22 4 Q. But you've been testifying about the whole school district,

08:56:22 5 I thought. You refer to Hearne as a predominantly black school

08:56:35 6 district, and you said when you arrived there, you found it to be

08:56:39 7 a predominantly black school district. And the Judge asked you,

08:56:42 8 what did you think the population was, and you said ten-percent

08:56:48 9 white and 57-percent black?

08:56:53 10 THE COURT: The Court takes notice that she was

08:56:53 11 estimating and that this has been a long time ago, and so,

08:56:57 12 whatever the figures show there would be the truth.

08:57:01 13 Q. (BY MR. FELDMAN) Well, you don't have any knowledge of

08:57:03 14 transfers prior to 1996, do you?

08:57:05 15 A. No.

08:57:06 16 Q. Okay. Look at the period of time that you were at -- let's

08:57:11 17 look at the period of time that you had been at the school

08:57:13 18 district since 1996. Transfers were taking place in '96-'97?

08:57:20 19 A. Correct.

08:57:21 20 Q. And do you know where those transfers were going?

08:57:29 21 A. I know that some were going to Mumford.

08:57:31 22 Q. Where were the others going?

08:57:34 23 A. To Gause.

08:57:35 24 Q. How about Milano?

08:57:38 25 A. None that I was aware of.

08:57:40 1 Q. Gause is a predominantly white school district?

08:57:44 2 A. To my knowledge.

08:57:45 3 Q. Do you know anything about Milano I.S.D?

08:57:47 4 A. No.

08:57:48 5 Q. Know anything about Calvert?

08:57:50 6 A. Yes, a little bit.

08:57:52 7 Q. Franklin?

08:57:53 8 A. Yes.

08:57:54 9 Q. Is Calvert predominantly white or black?

08:58:00 10 A. Calvert's predominantly black.

08:58:01 11 Q. And Franklin?

08:58:05 12 A. Predominantly white, to my knowledge.

08:58:08 13 Q. And you don't know anything about Milano, even though that's

08:58:11 14 also a neighboring school district?

08:58:12 15 A. No, I don't.

08:58:15 16 Q. Now, the transfers continued in '97-'98; is that correct?

08:58:21 17 A. Yes.

08:58:22 18 Q. But yet, the percentage of African-Americans in the student

08:58:24 19 -- amongst the student enrollment actually decreases, the number

08:58:26 20 decreases and the percentage decreases. Do you see that?

08:58:30 21 A. (Moving head up and down.)

08:58:30 22 Q. Does that surprise you?

08:58:30 23 A. (Moving head up and down.)

08:58:30 24 Q. I mean, with all those transfers going out, you were saying

08:58:30 25 it was making it a blacker school district. Does it surprise you

08:58:32 1 that the percentage actually went down from the first year you
08:58:50 2 were there to the second year you were there, the percentage of
08:58:53 3 blacks?

08:58:56 4 A. Yes.

08:58:58 5 Q. Is it perhaps the case that you -- all of the information
08:59:03 6 you're referring to is based on Blackshear, in particular, as
08:59:07 7 opposed to the entire school district?

08:59:16 8 A. Well, I could speak better for Blackshear than I could the
08:59:19 9 district.

08:59:20 10 Q. Do you have any reason to believe that the percentage of
08:59:22 11 blacks in Mumford I.S.D. -- excuse me, in Hearne I.S.D. in, say,
08:59:28 12 the year you -- before you came, '95-'96, was anything less than
08:59:34 13 50 percent? Do you have any reason to believe that?

08:59:42 14 A. I'm sorry. Will you say that again?

08:59:43 15 Q. Do you have any reason to believe that the percentage of
08:59:45 16 blacks in Hearne I.S.D. in '95-'96, the year before you came
08:59:50 17 there, was anything less than 50 percent?

08:59:55 18 A. No.

08:59:56 19 Q. Because, indeed, the reputation you said you heard when you
08:59:59 20 were over at Montgomery was that it was predominantly black?

09:00:05 21 A. (Moving head up and down.)

09:00:05 22 Q. And you have testified that the transfers over the years
09:00:08 23 made it even more black. Can you explain to us, then, why in
09:00:13 24 1998-'99, the student enrollment at Hearne shows the percentage
09:00:21 25 of blacks in the enrollment to be even less than it was in

09:00:26 1 '97-'98 and '96-'97, and that is 50.7 percent, and the white
09:00:37 2 student population is still hovering around 23 percent, with all
09:00:39 3 of these transfers? Can you explain that?
09:00:41 4 A. No.
09:00:48 5 Q. If we look at the next three school years, '99-2000,
09:01:07 6 2001-2002, we see some increase so that -- excuse me, increase in
09:01:09 7 the representation of black students in the Hearne I.S.D. actual
09:01:15 8 enrollment from 53 percent to 56 percent. Do you see that?
09:01:23 9 A. (Moving head up and down.)
09:01:23 10 Q. And then, if we go more to current day, we see it at in
09:01:38 11 2002-2003 and 2003-2004, approximately 55-and-a-half percent. Do
09:01:52 12 you see that?
09:01:52 13 A. Yes.
09:01:52 14 Q. So over the span of nine years that you have been at Hearne
09:01:57 15 I.S.D. from '96-'97 through 2003-2004, the entire time you were
09:02:07 16 at Blackshear, the percentage in change of blacks amongst student
09:02:14 17 -- student enrollment at Hearne was from 52 percent to
09:02:19 18 55-and-a-half percent. Do you see that?
09:02:22 19 A. Yes.
09:02:23 20 Q. That's a change of just three-and-a-half percent. Would you
09:02:25 21 agree with me? Would you agree with that?
09:02:32 22 A. Yes.
09:02:32 23 Q. Well, would you agree that a three-and-a-half-percent change
09:02:37 24 would not mean that people would perceive the school district as
09:02:41 25 being any more predominantly black? Would that change make a

09:02:52 1 difference?

09:02:52 2 A. No.

09:02:55 3 Q. Did you have Hispanic students in your school at Blackshear?

09:02:58 4 A. Yes.

09:02:58 5 Q. And Hispanic students were also transferring out from
09:03:01 6 Hearne, were they not?

09:03:01 7 A. Yes.

09:03:01 8 Q. In fact, Hispanics transfer out of Hearne I.S.D. in
09:03:05 9 substantial numbers; isn't that the case?

09:03:05 10 A. They transfer out. I'm not sure of the percentage that
09:03:26 11 transfers out.

09:03:28 12 Q. Well, again, part of U.S. Exhibit -- or Exhibit 237 in this
09:03:34 13 case, offered by the U.S., we see a resident Hispanic population
09:03:38 14 of 518. And of those 518 students who go to public schools, 159,
09:03:55 15 or approximately 30 percent, of those Hispanic students
09:04:00 16 transferred out of Hearne. Does that number surprise you?

09:04:05 17 A. Yes.

09:04:07 18 Q. Were you unaware that Hispanics who live in Hearne were
09:04:14 19 transferring out in such great numbers?

09:04:18 20 A. I was aware of the transfers, but I was not aware of the
09:04:21 21 numbers.

09:04:23 22 Q. You weren't aware of the impact the transfers were having on
09:04:26 23 your Hispanic population?

09:04:31 24 A. Well, I was aware of the impact due to students I was
09:04:36 25 losing.

09:04:36 1 Q. And so, you knew you were losing Hispanic students, as well
09:04:38 2 as white students, as well as black students. Did you not know
09:04:44 3 that?

09:04:46 4 A. Hispanic, yes, and white, yes.

09:04:48 5 Q. But you didn't realize you were losing black students at
09:04:51 6 Blackshear?

09:04:54 7 A. We lost very few black students.

09:04:57 8 Q. Did you lose a substantial number of Hispanic students?

09:05:01 9 A. Yes.

09:05:04 10 Q. Was that a concern to you?

09:05:07 11 A. Yes.

09:05:09 12 Q. The whites leaving was a concern to you, you testified. The
09:05:14 13 Hispanics leaving were a concern to you. Why were the Hispanics
09:05:17 14 leaving of concern to you?

09:05:17 15 A. The Hispanic population was growing in Hearne, but the
09:05:17 16 students that were leaving were the students that were
09:05:22 17 academically recognized on their TAKS. The Hispanics that were
09:05:22 18 leaving were academically recognized. A lot of those were
09:05:22 19 passing and recognized students.

09:05:22 20 Q. Why do you suppose that students -- Hispanic students who
09:05:25 21 were performing well, why their parents would choose to take them
09:05:51 22 out of Hearne and take them out of your school?

09:05:57 23 A. I don't know.

09:05:58 24 Q. Did you talk to any of them?

09:06:02 25 A. Yes, but for the most part, it was they wanted to be with

09:06:04 1 their friends.

09:06:06 2 Q. Hispanic students wanted to be with Hispanic students?

09:06:12 3 That's your understanding?

09:06:14 4 A. Yes.

09:06:14 5 Q. And Mumford has a substantial Hispanic population --

09:06:16 6 A. Correct.

09:06:17 7 Q. -- in its student body. But why would it simply be the
09:06:25 8 higher academically performing Hispanic children whose parents
09:06:32 9 would want to transfer them?

09:06:43 10 A. I can't answer that.

09:06:43 11 Q. Now, you know the area of Mumford is predominantly Hispanic?

09:06:47 12 A. Yes.

09:06:48 13 Q. Do you have any reason to believe that the Hispanics who
09:06:51 14 live in Mumford are exceptionally, high academically performing
09:07:00 15 group of Hispanic children?

09:07:02 16 A. I have no knowledge of that.

09:07:09 17 Q. You also testified that you were quite surprised to see how
09:07:15 18 many whites were living in Hearne versus the one -- the amount of
09:07:19 19 students -- white students you had at Hearne I.S.D., and you drew
09:07:25 20 that conclusion based on some kind of event that you attended?

09:07:31 21 A. Going to little league ball games and seeing the number of
09:07:35 22 white students that played ball.

09:07:37 23 Q. And when was it that you went to this little league ball
09:07:37 24 game? Was this back in '96 or recently?

09:07:42 25 A. Throughout the years that I've been in Hearne.

09:07:42 1 Q. Well, have you noticed the white population of Hearne
09:07:42 2 shrinking substantially in the years that you've been there? And
09:07:42 3 I'm not talking about the school district. I mean, the
09:07:46 4 community.

09:07:46 5 A. No, not significantly.

09:07:47 6 Q. The data provided by the United States shows that in
09:08:35 7 1998-'99 seems to be the most reliable year of information that
09:08:35 8 we have. There were 336 white students going to Hearne I.S.D.,
09:08:43 9 but the resident population, that is, students going to public
09:08:46 10 school in Hearne, was 449. Do you see that?

09:08:53 11 A. (Moving head up and down.)

09:08:54 12 THE COURT: Answer out for the record, ma'am.

09:08:56 13 A. Yes.

09:08:57 14 Q. (BY MR. FELDMAN) And I would show you the same information
09:09:04 15 for 2003-2004, and you'll see that the resident population -- the
09:09:16 16 resident student population of Hearne from 1998-'99 to 2003-2004
09:09:26 17 has gone down from 449 to 295 kids. Do you see that?

09:09:34 18 A. Yes.

09:09:34 19 Q. That's a population shift of approximately from 450 to 300.
09:09:43 20 That's -- my math tells me that's about a 33-percent drop in the
09:09:49 21 white population that the children -- white children in Hearne
09:09:55 22 Independent School District in the community. Do you agree with
09:09:58 23 me?

09:09:59 24 A. Yes.

09:09:59 25 Q. Have you seen that 33-percent loss of population?

09:10:02 1 THE COURT: You mean in schools or --

09:10:02 2 MR. FELDMAN: In the community, your Honor, as
09:10:05 3 reflected by the resident -- the substantial decline in the
09:10:05 4 residential population of whites in the Hearne community.

09:10:05 5 A. I have not seen that, that substantial number.

09:10:09 6 Q. (BY MR. FELDMAN) Well, do you see as many white kids playing
09:10:09 7 little league ball in Hearne today, in 2004-2005, as you did back
09:10:38 8 in '96-'97?

09:10:44 9 A. I did. I thought I did last summer.

09:10:48 10 Q. Do you know -- you spent a lot of time in Hearne. Do you
09:10:56 11 know where parents are sending -- where white parents are sending
09:10:59 12 their kids to school now that Mumford can't take any new
09:11:02 13 transfers?

09:11:07 14 A. No.

09:11:08 15 Q. Do you know where Hispanics are sending their kids to school
09:11:12 16 now that Mumford can't take any new transfers?

09:11:16 17 A. No.

09:11:17 18 Q. Do you know where blacks who want to transfer out are
09:11:20 19 sending their kids to school?

09:11:21 20 A. No.

09:11:22 21 Q. They're continuing to transfer out in substantial numbers,
09:11:26 22 aren't they?

09:11:32 23 A. To my knowledge, I haven't had many this year at the high
09:11:36 24 school. I'm speaking only at the high school.

09:11:41 25 Q. What about Blackshear? Did it continue through 2003-2004,

09:11:45 1 the transfer loss, or did it stop at some point in time?

09:11:51 2 A. Some transferred out last year but not a substantial number,

09:11:55 3 like in the past.

09:11:58 4 Q. So I would assume, then, that since they're not transferring

09:12:04 5 out, is Hearne becoming less black?

09:12:11 6 A. No.

09:12:12 7 Q. So where are the white kids going?

09:12:21 8 A. I don't know.

09:12:24 9 Q. Are you familiar with two private schools that exist in

09:12:26 10 Bryan? In Bryan, Texas?

09:12:29 11 A. Allen Academy and St. Joseph's.

09:12:29 12 Q. Yes. You're familiar with them?

09:12:29 13 A. Yes.

09:12:29 14 Q. And are you aware whether white parents in Hearne and

09:12:29 15 Hispanic parents in Hearne send their children to those schools?

09:12:35 16 A. We've had very few requests for transfer records there.

09:12:35 17 Q. Are you saying very few requests at which school, Blackshear

09:12:35 18 or the high school?

09:12:35 19 A. Either one.

09:12:35 20 Q. Do you know whether the number of people attending the Allen

09:13:03 21 Academy and the St. Joseph's has increased -- number of people

09:13:09 22 from Hearne attending those schools has increased over the last

09:13:13 23 two years, since Mumford hasn't been taking any new transfers?

09:13:18 24 A. I don't know.

09:13:22 25 Q. You also testified that when you worked in Mont -- that you

09:13:29 1 worked in Montgomery I.S.D. for 17 years, and it was your
09:13:35 2 observation that Montgomery I.S.D. was a low minority, affluent
09:13:43 3 community. I believe those were your words.

09:13:47 4 A. Yes.

09:13:47 5 Q. So it was predominantly white. Is that what you meant?

09:13:53 6 A. Yes, and students that came from professional homes with
09:13:58 7 professional parents.

09:13:59 8 Q. They tended to be white and they tended to be very bright?

09:14:04 9 A. Yes.

09:14:04 10 Q. But you still experience the same type of disciplinary
09:14:07 11 problems there as you did -- as you observed when you came to
09:14:12 12 Hearne?

09:14:14 13 A. Yes.

09:14:14 14 Q. Which is by your statement predominantly black; is that
09:14:18 15 correct?

09:14:19 16 A. Correct.

09:14:20 17 Q. So can we draw, therefore, the conclusion that the racial
09:14:24 18 composition of the school has no impact on whether or not it has
09:14:31 19 discipline problems?

09:14:37 20 A. Yes.

09:14:38 21 Q. Therefore, the transfer of white students and Hispanic
09:14:42 22 students from Hearne I.S.D. to Mumford, or anywhere else, would
09:14:48 23 not have had an impact on the state of discipline in Hearne
09:14:50 24 I.S.D., would it?

09:14:52 25 A. I can speak for my school. I don't think it did.

09:14:55 1 Q. Thank you, your Honor. Pass the witness.

09:14:55 2 THE COURT: Does the TEA desire to cross-examine the
09:15:01 3 witness?

09:15:01 4 MS. JUREN: We have no questions, your Honor.

09:15:01 5 THE COURT: What about the plaintiff?

09:15:01 6 MR. GUZMAN: I do have a few follow-up questions, sir.

09:15:29 7 THE COURT: All right.

09:15:31 8 RE-DIRECT EXAMINATION

09:15:36 9 BY MR. GUZMAN:

09:15:36 10 Q. Mrs. Reed, when you began at Blackshear Elementary in '96,
09:15:45 11 out of blacks, Hispanics and whites, which group had --
09:15:51 12 represented the smallest amount of enrollment?

09:15:54 13 THE COURT: Represented the what?

09:15:55 14 MR. GUZMAN: Represented the smallest amount of your
09:15:57 15 enrollment.

09:15:58 16 A. The white students.

09:16:01 17 Q. (BY MR. GUZMAN) Was that the case for every year that you
09:16:02 18 were a principal at Blackshear?

09:16:05 19 A. Yes.

09:16:06 20 Q. And in your time now as the principal at the high school,
09:16:10 21 out of those three groups, blacks, Hispanics, white, which group
09:16:14 22 represents the smallest proportion of the student enrollment?

09:16:17 23 A. The whites.

09:16:18 24 Q. With respect to the white enrollment at Blackshear
09:16:22 25 Elementary from your first year as principal to last, did that

09:16:26 1 proportion decrease? In other words, were the number of white
09:16:29 2 students attending Blackshear in '96, your first year, larger
09:16:34 3 than the percentage of white students attending Blackshear your
09:16:41 4 last year as principal?

09:16:41 5 A. Yes.

09:16:42 6 Q. Based on your experience in the community, did that decrease
09:16:44 7 in white population at Blackshear have any impact on the
09:16:48 8 perception that you described earlier that folks in Hearne
09:16:52 9 believed that their school district was predominantly black?

09:17:03 10 A. Would you repeat that?

09:17:05 11 THE COURT: I didn't quite understand myself.

09:17:07 12 Q. (BY MR. GUZMAN) Let me give it another try. It's 4:30.

09:17:10 13 With respect to -- you just testified that percentage
09:17:14 14 of white students at Blackshear decreased from the time you began
09:17:15 15 there as principal to the time of your last year there.

09:17:18 16 A. Yes.

09:17:18 17 Q. And my question to you was, did that decrease in white
09:17:23 18 population at Blackshear over that time reinforce or have a role
09:17:23 19 in the Hearne community's perception of its school district as
09:17:23 20 being predominantly black?

09:17:23 21 A. Yes, it -- the perception remained.

09:17:26 22 Q. Was that a consistent perception based on your experience
09:17:26 23 from the time you started working at the Hearne schools until
09:17:28 24 now?

09:17:28 25 A. Yes.

09:17:28 1 Q. Thank you. I have no further questions.

09:18:04 2 CROSS-EXAMINATION

09:18:25 3 BY MR. HEPWORTH:

09:18:25 4 Q. I'd like to ask you just a little bit about the white
09:18:32 5 students transferring from Hearne. In '98-'99, what percentage
09:18:43 6 of -- well, first of all, how many whites lived in the district?
09:18:52 7 Is that 449?

09:18:55 8 THE COURT: Why don't you bring that up closer so the
09:18:58 9 witness can read.

09:18:59 10 MR. HEPWORTH: You bet. Let me do that. This is also
09:19:07 11 on Exhibit 237, your Honor.

09:19:09 12 THE COURT: Can you read it now?

09:19:10 13 THE WITNESS: Yes.

09:19:11 14 THE COURT: All right.

09:19:14 15 Q. (BY MR. HEPWORTH) So we have 449 whites and how many
09:19:17 16 transferred?

09:19:20 17 A. 130.

09:19:21 18 Q. 130. And the percentage of whites enrolled in the district
09:19:25 19 was?

09:19:27 20 A. 22.57.

09:19:29 21 Q. So this 130 is about, what is that, a fourth? About a
09:19:37 22 fourth of how many were actually -- about 25 percent were
09:19:40 23 transferring out?

09:19:40 24 A. Correct.

09:19:41 25 Q. Okay. Let's track this. 22.57 is how many were attending

09:19:44 1 the school. About '99-2000, that went down to what?

09:19:47 2 A. 17.92 percent.

09:19:47 3 Q. Then, the next year, what did it go down to?

09:19:52 4 A. 16.11.

09:19:52 5 Q. And then, the next year, 2001-2002?

09:19:52 6 A. 13.02 percent.

09:19:52 7 Q. That's a 50-percent drop in about four years, isn't it --

09:19:52 8 A. Yes.

09:19:52 9 Q. -- of the whites. And the last two years, let's look at

09:20:25 10 them. We've got the percentage of whites in the district?

09:20:31 11 A. 14.53 percent.

09:20:33 12 Q. And then, down to?

09:20:35 13 A. 12.98 percent.

09:20:36 14 Q. Okay. And this shows resident population of 295 and

09:20:41 15 transfers 147. So that shows that half the students living there

09:20:48 16 aren't going there; is that correct?

09:20:50 17 A. Correct.

09:20:52 18 Q. About the same thing the year before, 362 to 187. Once

09:20:56 19 again, about half the students that live in Hearne aren't going

09:20:58 20 to Hearne?

09:20:59 21 A. Correct.

09:21:04 22 Q. You think that affects the perception of the community?

09:21:08 23 A. Yes.

09:21:10 24 Q. If you have 13 percent of your students are white, you've

09:21:19 25 got a class of ten students, how many white kids are going to be

09:21:24 1 in that class? 1.3, right? One student. So if you've got 20
09:21:32 2 students in class, you're only going to have three whites in
09:21:35 3 there. Do you think that also lends itself to the perception
09:21:37 4 that the school district is a minority school district?

09:21:41 5 A. Yes.

09:21:42 6 Q. Thank you. No further questions.

09:21:44 7 THE COURT: Do you have any further cross-examination?

09:21:55 8 RE-CROSS EXAMINATION

09:21:55 9 BY MR. FELDMAN:

09:21:55 10 Q. Ms. Reed, as you sit here today, you have no idea how many
09:21:55 11 of those white transfers went to Mumford versus going to other
09:21:58 12 public schools or private schools, or being home-schooled, do
09:22:03 13 you?

09:22:03 14 A. No. I cannot tell you a number.

09:22:05 15 Q. Thank you.

09:22:08 16 MS. JUREN: No further -- or no questions, your Honor.

09:22:11 17 MR. GUZMAN: No more questions, your Honor.

09:22:11 18 MR. HEPWORTH: No more questions, your Honor.

09:22:15 19 THE COURT: When you observed these buses in your
09:22:15 20 district, apparently were coming from Mumford, were you able to
09:22:15 21 ascertain the racial composition of the students that were on
09:22:20 22 these buses?

09:22:20 23 THE WITNESS: Yes, sir.

09:22:20 24 THE COURT: What was it, in your opinion?

09:22:20 25 THE WITNESS: In my opinion, it was mostly white and

09:22:20 1 Hispanic.

09:22:20 2 THE COURT: Well, as between the whites, and the
09:22:23 3 Hispanics, or the Latinos, do you have any opinion as to what the
09:22:57 4 percentages were?

09:23:01 5 THE WITNESS: No, sir. I don't know the percentages.

09:23:03 6 THE COURT: Anything else, counsel?

09:23:06 7 MR. FELDMAN: Yes, your Honor, along those lines.

09:23:10 8 Q. (BY MR. FELDMAN) Do you know when the high school was
09:23:14 9 started at Mumford?

09:23:20 10 A. I don't remember the year, but it started since I've been at
09:23:23 11 Hearne.

09:23:25 12 Q. Would it sound correct to you if I told you that the ninth
09:23:28 13 grade started in '98-'99, tenth grade, '99-2000, eleventh grade,
09:23:35 14 2000-201, and the twelfth grade in 2001-2002?

09:23:43 15 A. Yes.

09:23:43 16 Q. You do understand, do you not, that students were being
09:23:45 17 bused from Mumford to Hearne and have been bused from Mumford to
09:23:53 18 Hearne up to 2001-2002? Do you understand that?

09:23:59 19 A. I understand that.

09:24:00 20 Q. Because Mumford didn't have the grades for those students.
09:24:03 21 So you realize some of those buses you saw coming from Mumford
09:24:07 22 I.S.D. were to deliver some students to Hearne High School?

09:24:13 23 A. Right.

09:24:15 24 Q. With respect to the -- do you have any familiarity with the
09:24:26 25 bus routes that are run by Mumford in connection with the --

09:24:36 1 coming into Hearne?

09:24:40 2 A. I just know where some of them load or have been loading.

09:24:42 3 Q. If I were to show you documents which reflect the racial
09:25:15 4 breakout of all the students riding the buses that Mumford sends
09:25:15 5 into Hearne to bring students --

09:25:15 6 THE COURT: Well, I don't understand what you're trying
09:25:15 7 to prove here now.

09:25:15 8 MR. FELDMAN: Well, your Honor, the witness testified
09:25:15 9 that her observation was based on the Court's questioning, her
16:37:40 10 observation was that it's, you know, primarily white kids that
16:37:46 11 she sees on the buses. We have documents that show that the
16:37:48 12 contrary is true. And I was simply going to ask her --
16:37:50 13 I was simply going to ask her --

16:37:54 14 THE COURT: You're speaking about the students that
16:37:56 15 were transferred from Mumford to --

16:38:04 16 MR. FELDMAN: No. I've switched gear, your Honor. I'm
16:38:04 17 not talking about the kids that were -- that they had to bring
16:38:08 18 from Mumford into Hearne to go to high school. I'm talking about
16:38:12 19 the busing of students from Hearne to Mumford where Mumford would
16:38:18 20 send in buses, pick up kids in Hearne, and bring them back to
16:38:22 21 Mumford.

16:38:24 22 THE COURT: All right. Go ahead.

16:38:26 23 MR. FELDMAN: I thought that was what the Judge was
16:38:28 24 asking the witness about.

16:38:30 25 THE COURT: Go ahead.

16:38:32 1 Q. (BY MR. FELDMAN) Which buses did you observe that you said
16:38:36 2 you thought that they were predominantly white?

16:38:40 3 THE COURT: If you know.

16:38:44 4 A. Just the ones that passed by the high school are the ones
16:38:48 5 I've seen loading out by the ballpark.

16:38:52 6 Q. (BY MR. FELDMAN) Did you actually go and count kids or
16:38:54 7 anything?

16:38:54 8 A. No.

16:38:56 9 Q. But you really don't know what the racial composition of the
16:39:00 10 student riders are on the buses going from Hearne to Mumford, do
16:39:04 11 you?

16:39:06 12 A. No, I do not know the percentages of students on the buses.

16:39:10 13 Q. Nothing further, your Honor.

16:39:12 14 THE COURT: Anything else?

16:39:14 15 MR. GUZMAN: Your Honor, just one or two questions.

16:39:16 16 THE COURT: All right. Go ahead. I didn't ask TEA.

16:39:22 17 MS. JUREN: We have no questions, your Honor. Still
16:39:24 18 have none.

16:39:26 19 RE-DIRECT EXAMINATION

16:39:28 20 BY MR. GUZMAN:

16:39:28 21 Q. Ms. Reed, I just wanted to clarify one point of your
16:39:32 22 testimony for the record.

16:39:32 23 The five buses that you've been discussing that you're
16:39:36 24 aware of that travel from Mumford to Hearne. Is that to pick up
16:39:42 25 students from Hearne that attend -- that live in Hearne and

16:39:44 1 attend schools in Mumford?

16:39:46 2 A. Yes.

16:39:48 3 Q. I have nothing further.

16:39:52 4 THE COURT: You may stand down, ma'am, and you are
16:39:54 5 finally excused.

16:39:56 6 THE WITNESS: Thank you.

16:39:56 7 THE COURT: In other words, you can go home.

16:39:58 8 THE WITNESS: Okay.

16:40:00 9 THE COURT: This will conclude the testimony for today.
16:40:04 10 Who will be your next witness tomorrow?

16:40:06 11 MR. CASPAR: Your Honor, tomorrow morning, we will call
16:40:10 12 Chris Hayes.

16:40:10 13 THE COURT: All right. Have him in the courtroom,
16:40:12 14 ready to take the oath. We'll begin at that time.

16:40:16 15 Is there anything that counsel want to bring to the
16:40:20 16 attention of the Court before adjournment?

16:40:22 17 MS. JUREN: No, your Honor.

16:40:24 18 MR. FELDMAN: No, your Honor.

16:40:26 19 MR. HEPWORTH: No, your Honor.

16:40:26 20 THE COURT: All right. The Court is adjourned.

16:40:26 21 (Proceedings adjourned.)

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